

REMARKS

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen. This ground of rejection is respectfully traversed. The Examiner admits that Chen teaches the heating of the sugar solution to 121 °C prior to agglomeration, and further that Chen teaches the use of sugar solutions with a concentration of 90-98 wt % and that the high temperature of the sugar solution prevents premature crystallization. The Examiner errs, however, in asserting “[i]t would therefore be expected that if a less concentrated sugar solution, such as that used by Applicant (31-65 wt %, page 4, lines 27-32), were utilized, the high temperature would not be required because the solution would not be supersaturated.” Rather than supporting the position of the Examiner in rejecting the claims, this statement clearly expresses the differences between Chen and the present invention and supports the patentability of the present claims. Chen accomplishes co-crystallization by using a concentrated sugar solution that must be heated to make it a liquid. Upon being applied to the food ingredient, the combination is subjected to impact beating within a crystallization zone until a crystallized product is formed (page 5, lines 15-25). The resulting Chen product is touted as being “homogeneous” (page 4, line 1; page 5, lines 7-8; page 26, lines 33-34). In contrast, the present invention uses a sugar solution that is in liquid form at ambient temperatures and when applied to the substrate crystalline carrier particles only dissolves an outer portion of the carrier particles (claim 1 (ii)) and results in a non-homogenous product having a core of the carrier particle material and an outer coating of the co-crystallized material (for example, page 2, lines 27-33; page 5, lines 1-2 and lines 15-20). Thus, claim 1 which recited that only the outer portion of the carrier particles are dissolved upon application of the sugar solution at much reduced temperatures than required by Chen is patentably distinguished from Chen.

This argument was not earlier presented because it could not have been anticipated by the Applicant that the Examiner would apply Chen in such a manner. Chen teaches a homogenous product obtained by the use of a high-temperature solubilized sugar solution applied to a food product and then held at a temperature within a crystallization zone while subjected to impact beating. The present invention, as recited in the claims, teaches a non-homogeneous product in which only the outer portion of the particles has been co-crystallized with a low-temperature, high water content sugar solution. Reconsideration and withdrawal of the rejection of claims 1-5 under 103(a) based on Chen is respectfully requested. Since the rejections of claims 6-8 are

based on the unpatentability of claim 1, these rejections, respectfully, should also be reconsidered and withdrawn.

The application has been amended to correct minor informalities, to further distinguish the application over the prior art, and to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention so as to place the application, as a whole, into a prima facie condition for allowance. Great care has been taken to avoid the introduction of new subject matter into the application as a result of the foregoing modifications.

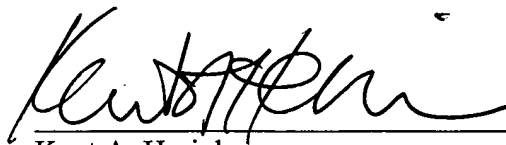
Accordingly, the purpose of the claimed invention is not taught nor suggested by the cited references, nor is there any suggestion or teaching which would lead one skilled in the relevant art to combine the references in a manner which would meet the purpose of the claimed invention. Because the cited references, whether considered alone, or in combination with one another, do not teach nor suggest the purpose of the claimed invention, Applicant respectfully submits that the claimed invention, as amended, patentably distinguishes over the prior art, including the art cited merely of record.

Based on the foregoing, Applicant respectfully submits that its claims 1-8, as amended, are in condition for allowance at this time, patentably distinguishing over the cited prior art. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the present application which will be effective to define the patentable subject matter if the present claims are not deemed to be adequate for this purpose.

Respectfully submitted,

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Kent A. Herink
Registration No. 31,025
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
666 Walnut St., Suite 2500
Des Moines, Iowa 50309

Telephone: (515) 288-2500

ATTORNEYS FOR APPLICANT